

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MERHAWI NEGASH

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§

PLAINTIFF

§

§

V.

§

CIVIL ACTION NO. _____

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DAWN MICHELE HAMILTON AND

§

THE WAGONNERS TRUCKING, INC.

§

DEFENDANTS

§

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, MERHAWI NEGASH, hereinafter referred to as Plaintiff complaining of DAWN MITCHELL HAMILTON, and THE WAGGONERS TRUCKING, INC., hereinafter referred to as Defendants, and for good cause of action would respectfully show as follows:

I.

PARTIES

1.1 Plaintiff MERHAWI NEGASH, is an individual residing in Houston, Harris County, Texas. He brings his negligence action on behalf of himself.

1.2 Defendant DAWN MICHELE HAMILTON is a resident and citizen of Indiana and can be served with process at her last

known address at 5933 Greenfield Avenue Indianapolis, Indiana 46219.

1.3 Defendant THE WAGONNERS TRANSPORT, INC., (herein after referred to as "THE WAGGONNERS") is a Montana Corporation duly registered by the Georgia Secretary of State primarily engaged in transportation and logistics. It's main business address is 5220 Midland Road Billings, MT 59101. Defendant "THE WAGGONERS" can be served with process by serving its registered agent Robert M. McKenna at 1111 Bay Avenue, Suite 300 Columbus, GA 31901.

II.

FORUM CONVENIENS JURISDICTION

2.1 The Houston Texas U.S. District Court for the Southern District has original jurisdiction of this civil action pursuant to 28 U.S.C. §1332(a) and, *forum conveniens* jurisdiction under 28 U.S.C. §1404. The amount in controversy exceeds Seventy-Five Thousand (\$75,000) dollars exclusive of interest and costs.

2.2 Venue is properly before this court under the forum conveniens doctrine in light of the fact that Plaintiff resides in Texas and the Defendant in Indianapolis, Indiana but the events giving rise to the claim occurred in Arkansas.

III.

BACGROUND

On or about September 4, 2021, Plaintiff MERHAWI NEGASH was parked at a rest stop in Arkansas and resting in the cab of his 18 wheeler truck.

On the said date and time Defendant DAWN HAMILTON was similarly operating an 18 wheeler transport truck belonging to Defendant "THE WAGGONERS". The weather on said September 4, 2021 was clear and visible. However, Defendant DAWN HAMILTON operating her 18 wheeler recklessly struck the cab of Plaintiff's 18 wheeler. The impact was so severe that it jolted Plaintiff about in his cab and caused him to sustain bodily injuries. Similarly, the cab of Plaintiff's 18 wheeler sustained physical damage. Defendant DAWN HAMILTON tried to drive off after crashing into Plaintiff's cab but was stopped.

The injuries suffered by Plaintiff MERHAWI NEGASH after the cab of his 18 wheeler was struck by Defendant DAWN HAMILTON were so severe that he sought and received medical treatment and therapeutic and rehabilitative care.

IV.

CAUSES OF ACTION

The occurrence made the basis of his suit, referred to in Paragraph III, and the resulting injuries and damages suffered by Plaintiff MERHAWI NEGASH was directly, solely and proximately caused by the negligent and reckless conduct of Defendant DAWN

HAMILTON. Defendant HAMILTON's negligent acts whether taken singularly or in combination, proximately and solely caused Plaintiffs' injuries in one or more of the following respects:

1. In failing to keep such lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
2. In failing to apply the brakes to her vehicle in order to avoid the occurrence made the basis of this suit;
3. In failing to skillfully swerve her vehicle in an effort to avoid the occurrence made the basis of this suit;
4. In failing to sound and blow the horn of her vehicle so to warn Plaintiff;
5. In failing to follow and obey required traffic protocols while operating a vehicle in a public space;
6. In recklessly and negligently operating her in an unsafe manner which resulted in the accident made the basis of this suit.

Each of these acts and omissions, whether taken singularly or in combination with others, constituted negligence by Defendant DAWN HAMILTON and which negligence proximately caused Plaintiff's injuries and damages made the basis of Plaintiff's suit.

V.

INJURIES AND MEDICAL TREATMENT

As a direct and proximate result of Defendant DAWN HAMILTON's reckless and negligent operation of her 18 wheeler truck and crashing into Plaintiff MERHAWI NEGASH's 18 wheeler cab he incurred medical expenses for treatment for his bodily injuries in excess of Eleven Thousand Dollars.

The specific injuries and resultant ill-effects of same have in turn, caused Plaintiff great and enormous grief. As a further direct result of Defendant DAWN HAMILTON's negligent operation of her 18 wheeler truck and causing the accident forming the basis of this suit, Plaintiff continues to suffer residual pain and mental anguish which he may suffer for the rest of his natural life.

To adequately compensate Plaintiff MERHAWI NEGASH for his pain, suffering, and emotional anguish, he herein seeks the sum of One Hundred Fifty Thousand (\$150,000.00) dollars.

VI.

VICARIOS LIABILITY

At the time of the occurrence of the accident made the basis of this suit Defendant DAWN HAMILTON was employed by Defendant "THE WAGGONERS". As a consequence, Defendant "THE WAGGONERS" is vicariously liable to the Plaintiff for the injuries suffered from the accident that occurred on September 4, 2021 due to its

negligently entrustment of the company's 18 wheeler truck to Defendant DAWN HAMILTON.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer and that on final trial of this cause, Plaintiff have:

1. Judgment against Defendants for Plaintiff's bodily injuries, pain, suffering and emotional distress in the sum of One Hundred and Fifty Thousand (\$150,000.00) dollars collectively;
2. Pre-judgment and post judgment interest; and
3. Judgment in law and equity and such other and further relief to which Plaintiff may show himself entitled.

Respectfully submitted,
MUKUM SHERMAN & ASSOCIATES

/s/ Mukum Sherman

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